

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

MICHAEL ARNOLD,

Plaintiff,

V.

**STARSTONE NATIONAL INSURANCE
COMPANY,**

Defendant.

§
§
§
§
§
§
§
§
§
§

**CIVIL ACTION NO. 2:18-cv-00412
JURY**

STARSTONE NATIONAL INSURANCE COMPANY’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant STARSTONE NATIONAL INSURANCE COMPANY (“StarStone”) files its Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity of citizenship and amount in controversy, and respectfully shows the following:

I. PROCEDURAL BACKGROUND

1. On August 31, 2018, Plaintiff Michael Arnold (“Arnold” or “Plaintiff”) filed his Original Petition in a case styled *Michael Arnold vs. StarStone National Insurance Company*, Cause No. 2018DCV-4455-G, pending in the 319th Judicial District Court for Nueces County, Texas.

2. StarStone received a copy of the Plaintiff’s Original Petition on or about October 9, 2018.

3. StarStone files this notice of removal within 30 days of receiving Plaintiff’s Original Petition. *See* 28 U.S.C. § 1446(b). This Notice of Removal is being filed within one year of the commencement of this action. *See id.*

4. All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. § 1446(a).

5. Attached hereto are copies of the following documents:

- **Exhibit 1:** The State Court's Docket Sheet;
- **Exhibit 2:** Plaintiff's Original Petition;
- **Exhibit 3:** Citation served on StarStone National Insurance Company;
- **Exhibit 4:** Defendant StarStone National Insurance Company's Original Answer and Plea in Abatement;
- **Exhibit 5:** List of Parties and Counsel;
- **Exhibit 6:** StarStone's Corporate Disclosure Statement; and
- **Exhibit 7:** Insurance Dec Page for Policy No.TNI16513.

II. BASES FOR REMOVAL

6. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

A. Plaintiff and Defendant StarStone are diverse.

7. **Plaintiff** Michael Arnold is an individual who is a resident of Nueces County, Texas.

8. **Defendant** StarStone National Insurance Company is a foreign company with its principal business located at Harborside 5, 185 Hudson Street, Suite 2600, Jersey City, New Jersey. StarStone is authorized to transact business and has transacted business in Texas.

9. Thus, this lawsuit is between citizens of different states, and there is complete diversity of citizenship between the Plaintiff and StarStone.

B. The Amount in Controversy Exceeds the Jurisdictional Requirements for Subject Matter Jurisdiction.

10. In determining the amount in controversy, the court may consider “policy limits... penalties, statutory damages, and punitive damages.” *St. Paul Reinsurance Co., Ltd. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998); *see Ray v. State Farm Lloyds*, No. CIV.A.3:98-CV-1288-G, 1999 WL 151667, at * 2-3 (N.D. Tex. Mar. 10, 1999) (finding a sufficient amount in controversy in plaintiff’s case against their insurance company for breach of contract, fraud, negligence, gross negligence, bad faith, violations of the Texas Insurance Code, violations of the Texas Deceptive Trade Practices Act, and mental anguish); *Fairmont Travel, Inc. v. George S. May Int’l Co.*, 75 F. Supp.2d 666, 668 (S.D. Tex. 1999) (considering DTPA claims and the potential for recovery of punitive damages for the amount in controversy determination); *Chittick v. Farmers Ins. Exch.*, 844 F. Supp. 1153, 1155 (S.D. Tex. 1994) (finding a sufficient amount in controversy after considering the nature of the claims, the types of damages sought and the presumed net worth of the defendant in a claim brought by the insureds against their insurance company for actual and punitive damages arising from a claim they made for roof damages).

11. This is a civil action in which the amount in controversy exceeds \$75,000. Paragraph 6 of Plaintiff’s petition indicates “Plaintiff seeks monetary relief over \$100,000 but not more than \$200,000.” Plaintiff alleges that defendant is liable under a residential insurance policy because Plaintiff made a claim under that policy and that defendant wrongfully adjusted and underpaid Plaintiff’s claim. *See Exhibit 7, Insurance Dec Page for subject property in the dwelling limits of \$256,025.* This evidence demonstrates that the amount in controversy in this case exceeds the jurisdictional requirements.

III. THIS REMOVAL IS PROCEDURALLY CORRECT

12. StarStone received service of this lawsuit on October 9, 2018. Thus, Star Stone is filing this Notice within the 30-day time period required by 28 U.S.C. § 1446(b).

13. Venue is proper in this District and Division under 28 U.S.C. §1446(a) because i) this District and Division include the county in which the state action has been pending, and ii) a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this District and Division.

14. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

15. Promptly after StarStone files this Notice of Removal, written notice of the filing will be given to Plaintiff pursuant to 28 U.S.C. §1446(d).

16. Promptly after StarStone files this Notice of Removal, a true and correct copy of same will be filed with the District Clerk of the Nueces County District Court pursuant to 28 U.S.C. §1446(d).

IV. CONCLUSION

17. Based upon the foregoing, the exhibits submitted in support of this removal, and other documents filed contemporaneously with this Notice of Removal, Defendant StarStone National Insurance Company hereby removes this case to this Court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ George Arnold

George H. Arnold, Attorney-in-Charge

State Bar No. 00783559

Southern District Bar No. 15948

Susan Sparks Usery

State Bar No. 18880100

Southern District Bar No. 13550

One Riverway, Suite 1400

Houston, Texas 77056

Telephone: (713) 403-8210

Facsimile: (713) 403-8299

Emails: garnold@thompsoncoe.com

susery@thompsoncoe.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 8, 2018, a true and correct copy of the foregoing instrument was served upon all known counsel of record in accordance with the Federal Rules of Civil Procedure, and any applicable Local Rules, as follows:

Bradford M. Condit
LAW OFFICE OF BRADFORD CONDIT
401 N. Tancagua
Corpus Christi, Texas 78401
bradcondit@sbcglobal.net
Attorney for Plaintiff

/s/ George Arnold

George H. Arnold